

**ASSEMBLY BILL**

**No. 915**

**Introduced by Assembly Member Keene**

February 18, 2005

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An act to amend Section 337 of the Code of Civil Procedure, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 915, as introduced, Keene. Civil actions: time of commencing.

Existing law prescribes periods for commencement of various actions. Among others, an action upon a written contract, book account, or the rescission of a written contract must be commenced within 4 years, as specified.

This bill would extend the period for commencement of those actions to 7 years.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 337 of the Code of Civil Procedure is  
2 amended to read:  
3 337. Within ~~four~~ seven years: 1. An action upon any contract,  
4 obligation or liability founded upon an instrument in writing,  
5 except as provided in Section 336a of this code; provided, that  
6 the time within which any action for a money judgment for the  
7 balance due upon an obligation for the payment of which a deed  
8 of trust or mortgage with power of sale upon real property or any  
9 interest therein was given as security, following the exercise of  
10 the power of sale in such deed of trust or mortgage, may be

1 brought shall not extend beyond three months after the time of  
2 sale under such deed of trust or mortgage.

3 2. An action to recover (1) upon a book account whether  
4 consisting of one or more entries; (2) upon an account stated  
5 based upon an account in writing, but the acknowledgment of the  
6 account stated need not be in writing; (3) a balance due upon a  
7 mutual, open and current account, the items of which are in  
8 writing; provided, however, that where an account stated is based  
9 upon an account of one item, the time shall begin to run from the  
10 date of said item, and where an account stated is based upon an  
11 account of more than one item, the time shall begin to run from  
12 the date of the last item.

13 3. An action based upon the rescission of a contract in writing.  
14 The time begins to run from the date upon which the facts that  
15 entitle the aggrieved party to rescind occurred. Where the ground  
16 for rescission is fraud or mistake, the time does not begin to run  
17 until the discovery by the aggrieved party of the facts  
18 constituting the fraud or mistake. Where the ground for  
19 rescission is misrepresentation under Section 359 of the  
20 Insurance Code, the time does not begin to run until the  
21 representation becomes false.